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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/308,562      | 07/16/1999  | DUNCAN AKPORIAYE     | 35/101053           | 6349             |

7590 11/26/2001

WENDEROTH LIND & PONACK  
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SUITE 800  
WASHINGTON, DC 20006

EXAMINER

SOUBRA, IMAD

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1744

DATE MAILED: 11/26/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |  |   |  |
|--|--|---|--|
| <p align="center"><b>Office Action Summary</b></p> | <p>Application No.</p> <p>09/308,562</p> | <p>Applicant(s)</p> <p>AKPORIAYE ET AL.</p> |  |
|  | <p>Examiner</p> <p>Imad Soubra</p>       | <p>Art Unit</p> <p>1744</p>                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 1999.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 20) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Claim Objections***

1. The Office insists that the Claims should be the object of the sentence starting with "I/We Claim". MPEP 608.01(m).

### ***Drawings***

2. The drawings filed on July 16, 1999 are objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated on of the Notice of Draftsperson's Patent Drawing Review Form. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be submitted according to the instructions on the back of the Form.
3. The Drawings are objected by the Examiner that the Drawings are unclear and confusing. These Drawings are very difficult to read as to what the applicant is describing as their features in the claimed invention.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one

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skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner had a difficult time in visualizing what the applicant is reciting as the claimed invention. Please provide better clarification in the claims as to what the applicant is claiming. Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. When using terms such as "reaction chambers", "permanently", "wholly or partly", "central block", "similar", "may" and "loosely", these terms are too broad and nebulous. Also, what do these terms mean? These terms do not provide a clear meaning as to what the applicant is trying to claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- Determining the scope and contents of the prior art.
- Ascertaining the differences between the prior art and the claims at issue.
- Resolving the level of ordinary skill in the pertinent art.
- Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zwingenberger et al in view of Black. Zwingenberger et al reference discloses a similar autoclave apparatus as applicant is claiming. Zwingenberger et al reference teaches that Figure 1, for sterilization medical instruments and implants with steam, a sterilization container 10 is used instead of a conventional autoclave; the sterilization container 10 which is constructed as a cassette formed by a base part and cover part and arranged at an angle to the horizontal line can be inserted into a recess of a stationary holding device 11 having thermal insulation 11a; the sterilization container has a receiving plate 12 constructed as a perforated plate for receiving the medical instruments and implants to be sterilized; the holding device 11 has an air condensation outlet line 16 projecting through an outlet opening 13 in the sterilization container and a steam feed line 18 projecting through an inlet opening 14 into the sterilization container so that these two lines project, at a distance from one another, into the space 10a enclosed by the sterilization container (column 3, line 53 – column 4, line 2).

Zwingenberger et al further teaches that the sterilization container which is designated in its entirety by 130 according to Figures 7, 7a, and 8, this sterilization container 130 is

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constructed as a square cup, i.e. with front wall and rear wall and with side walls and a perforated base surface 132; the sterilization chamber 130 has, adjacent to its perforated base surface 132, a drawn in edge 133 which is open at the top; a rectangular, shell-like receptacle 135 which is closed at the bottom and adapted to the circumference of the sterilization container is allocated to the base surface 132 for accommodating the sterilization container 130 in a detachable manner; this shell-shaped receptacle can be transferred from a receiving position (Figure 8) outside the holding device into a working position (Figure 7) inside the holding device within a recess 131 provided for this purpose and vice versa by means of a rail guide 136 whose supporting rails are guided between rollers 137 supported in the holding device 111; a surrounding seal 139 is arranged between the receptacle 135 and the drawn in edge 133; the seal 139 seals the perforated base surface 132 of the sterilization container against the atmosphere in the inserted position in the receptacle 135 (column 46-68) and so forth.

On the other hand, the patent of Zwingenberger et al fails to disclose the multitude of reaction chamber. However, the patent of Black discloses these plurality chambers in its autoclave apparatus. Black teaches that the door 9 for the access opening is shown in open position, so as to expose three trays 10 positioned in spaced superimposed relation; these trays may be inserted into and withdrawn from the autoclaving chamber through the aperture in the front wall of the casing as will readily be apparent. The motivation and/or reason for combining the two references would be show that a

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number of medical instruments can be placed into the autoclave chamber simultaneously which results in saving the <sup>consuming</sup> time and money in doing so. Therefore, it would have been obvious of one having ordinary skill in the art at the time that the invention was made to incorporate the many chambers of Black into the sterilizing device of Zwingenberger in order to sterilize a greater number of medical instruments at one time.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sanderson, Abrams, Castle, Lorenz, Berry, Jr., Wagner, Oakley et al, Beauvais teach similar reactor vessel as the applicant is claiming.

### Conclusion

Any inquiry concerning this communication from the examiner should be directed to Imad Soubra whose telephone number is (703) 305-3541. The examiner can normally be reached on 8:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-5408 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1193.

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Imad Soubra  
October 25, 2001

*Robert J. Warden, Sr.*

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